

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JULIUS JONES,)
vs.)
Petitioner,)
vs.) Case No. CIV-07-1290-D
)
MARTY SIRMONS, Warden)
Oklahoma State Penitentiary,)
vs.)
Respondent.)

**PETITIONER S UNOPPOSED MOTION
TO ACCEPT LATE FILING OF PETITION FOR WRIT OF HABEAS CORPUS
AND MOTION FOR DISCOVERY**

Julius Jones, through counsel, moves that the Court:

1. Accept the late filing of Petitioner s Petition for Writ of Habeas Corpus.

The document was electronically filed approximately an hour and a half after the 6 p.m. time for documents to be considered timely filed. The document, however, was filed within the statute of limitations period for habeas corpus petitions: within one year of the time the post-conviction application was denied.

2. Permit the filing on November 6, 2008 of Petitioner s motion for discovery which had been due yesterday.

Undersigned counsel has discussed this motion with Assistant Attorney General Jennifer Strickland, counsel for Respondent. Ms. Strickland stated she is not opposed to either the motion to accept the late filing of the petition or to the motion to permit filing

of the motion for discovery on November 6, 2008.

The Petitioner previously requested two extensions of time regarding the Petition for Writ of Habeas Corpus. The first request resulted in an extension being granted from September 15, 2008 to October 30, 2008 for filing the petition for writ of habeas corpus and motion for discovery. The second resulted in a four-day extension to file both the petition and motion for discovery from October 30, 2008 to November 3, 2008.

There is no trial or hearing date in this case and thus no inevitable impact on any trial or hearing date.

As grounds for this extension, counsel states:

First, Undersigned counsel's wife, Melinda Barrett, recently has had knee replacement surgery and she remains off work and at home recovering from the surgery. Because of her limited mobility, undersigned counsel has been working at home and assisting Ms. Barrett, however work, at times, has been difficult to accomplish.

Second, The failure to timely file the habeas petition was directly related to the attempt to do most of the work on the petition at home. The petition, cover, and index were completed at approximately 5:30 p.m. Ordinarily, counsel would have his secretary at his office compile the cover, index, and petition into one document. Counsel was unable to do the work himself and have it appropriately paginated until finally going page by page and directing an appropriate number for each page. That finally was accomplished about two hours after the effort began.

Third, Granting this motion would be in the interests of justice and not to the prejudice of any party.

Fourth, The need for the extra days for the motion for discovery is not due to counsel's failure to work, but due to extraordinary demands on his time posed by the habeas petition, the recent surgery, and the demands of other cases.

The precise relief requested: acceptance of habeas petition filed approximately and hour and a half late, extension of time to file the motion for discovery motion until November 6, 2008..

CONCLUSION

For the above reasons, Petitioner requests that this motion for be granted.

Respectfully submitted,

/s Mark Barrett
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ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of November, 2008, I electronically transmitted the attached document to the Clerk of Court using the ECF system for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrant: Jennifer L. Strickland, Assistant Attorney General, whose service email is fhc.dcoke@oag.state.ok.us.

/s/ Mark Barrett